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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA**

In re:

MONTANA TUNNELS MINING, INC.,

Debtor.

Case No. 2:22-bk-20132-BPH

(Chapter 11)

**STIPULATION FOR CONFIRMATION OF DEBTOR'S
SECOND AMENDED CHAPTER 11 PLAN DATED SEPTEMBER 5, 2023**

Debtor and Debtor in Possession ("MTMI"), the United States Bureau of Land Management ("BLM"), the United States Environmental Protection Agency ("EPA"), and the Montana Department of Environmental Quality ("DEQ"), hereby stipulate and agree pursuant to Fed. R. Bankr. P. 3019(a) to resolve the objections to confirmation of Debtor's proposed Second Amended Chapter 11 Plan dated September 5, 2023 (ECF No. 76) ("Proposed Plan"), as modified by the Stipulation with DEQ (ECF No. 83). The resolution of BLM's and EPA's objections is contingent upon the following modifications:

1. The following definitions shall be modified:

Bonds (page 3). Shall mean cash, indemnity, or property bonds provided to the DEQ by MTMI pursuant to §§ 82-4-313 and 338, M.C.A., as may be shared with BLM pursuant to all applicable non-bankruptcy laws and regulations and the DEQ-BLM Memorandum of Understanding for Administration of Hard Rock/Locatable Mining Activities on Bureau of Land Management Administered Lands and Minerals as most recently amended July 24, 2020 ("MOU").

Bonding Requirement (page 3). Shall mean reclamation **Bonds** required by the Montana Department of Environmental Quality pursuant to §§ 82-4-303 through 390, M.C.A. and any regulation adopted thereunder, **and which may be shared with BLM pursuant to the MOU and the laws and regulations identified therein.**

2. Proposed Plan ¶ 2.01 shall be modified:

. . . (iv) securing bonding to comply with the DEQ's reclamation **Bonding Requirements**; . . .

3. Proposed Plan ¶ 5.06 shall be modified:

The Class V claimants hold contingent claims for environmental remediation. The members of this class are the DEQ, U.S. Bureau of Land Management, and Montana Natural Resources Damage Program **which** hold contingent claims which will survive the chapter 11 discharge and may be asserted in the future **to the full extent allowed by governing legal and regulatory authority under non-bankruptcy law.** ~~in the event: 1) MTMI fails to reclaim or remediate any disturbed land or water for which MTMI has liability under any environmental law, or 2) any reclamation or remediation does not fully address any claim for natural resource damages.~~ **BLM reserves all rights to contend that its interests and regulatory powers are not claims pursuant to 11 U.S.C. § 101(5), and the Plan's classification of Claim V is for administrative convenience only.**

4. Proposed Plan ¶ 9.07 shall be modified:

On and after the *Effective Date*, MTMI and professionals whose employment has been approved by the Court shall be exculpated from any and all claims, except claims arising from **fraud**, willful misconduct or gross negligence, arising between the date of commencement of this case and the *Effective Date*. MTMI and professionals shall neither have, nor incur any liability to any Entity for any post-petition, pre-final decree act taken or omitted to be taken in connection with ~~this case~~, or related to formulating, negotiation, soliciting, preparing, disseminating, **or** confirming, ~~or implementing the Plan or consummating the Plan~~, the Disclosure Statement, or any contract, instrument, release, or other agreement or document created or entered into in connection with the *Plan* ~~or any other post petition act taken or omitted to be taken in connection with or in contemplation of the restructuring or liquidation of the MTMI~~; provided that the foregoing "Exculpation" shall have no effect on the liability of any entity that results from any such act or omission that is determined in a final order to have constituted fraud or willful misconduct; provided, further, that each party subject to the exculpation provided hereby, shall be entitled to rely upon the advice of counsel concerning his, her, or its duties pursuant to, or in connection with, the Plan or any other related document, instrument, or agreement.

5. Proposed Plan ¶ 9.08 shall be modified:

In the event of ~~pending~~ litigation **pending on the petition date**, unresolved by a final, non-applicable . . .

6. Paragraph 5 of the stipulation with DEQ shall apply to Governmental Units notwithstanding any other provisions in the Proposed Plan.

7. In the event of any conflict between the terms of the Debtor's Plan or Disclosure statement, on the one hand, and the terms of this Stipulation, on the other hand, the terms of this Stipulation shall control.

WHEREFORE, the parties respectfully request the Court enter its Order approving this Stipulation and its terms and incorporating the same into the order of confirmation.

DATED: October 3, 2023.

JESSE A. LASLOVICH
UNITED STATES ATTORNEY

/s/ Lynsey Ross
Lynsey Ross
Assistant U.S. Attorney
Attorney for U.S. Bureau of Land Management

DATED: October 3, 2023.

/s/ Jeanne Cohn
Jeanne Cohn
Alan Tenenbaum
U.S. Dept. of Justice, Environmental and Natural
Resources Division
Attorneys for U.S. Environmental Protection Agency

DATED: October 3, 2023.

**PATTEN, PETERMAN, BEKKEDAH &
GREEN, PLLC**

/s/ JA Patten
James A. Patten
Attorney for Debtor and Debtor in Possession

DATED: October 3, 2023.

**JARDINE, BLEWETT, STEPHENSON &
WEAVER, PC**

/s/ Steve Johnson
Steven M. Johnson
Attorney for Montana Department of
Environmental Quality

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify under penalty of perjury that on October 3, 2023, a copy of the foregoing was served by electronic means pursuant to LBR 9013-1(d)(2) on the parties noted in the Court's ECF transmission facilities and/or by mail on the following parties:

None.

/s/ Lynsey Ross

Lynsey Ross
Assistant U.S. Attorney